

## **REMARKS**

Applicants appreciate the Examiner's thorough consideration provided the present application. Claims 1-17 are currently pending in the instant application. Claim 18 has been cancelled. Claims 1 and 9 are independent. Reconsideration of the present application is earnestly solicited.

### **Restriction/Election of Species**

Claim 18 has been withdrawn from further consideration by the Examiner as being drawn to non-elected subject matter patentably distinct from the subject matter of claims 1-17. Applicants confirm the election of claims 1 to 17.

Without conceding the propriety of the Examiner's position, but merely to timely advance the prosecution of the present application, Claim 18 has been cancelled. However, Applicants reserve the right to pursue the non-elected subject matter in a subsequently and timely filed divisional application.

### **Claim Rejections Under 35 U.S.C. § 102**

Claims 1 to 6 stand rejected under 35 U.S.C. 102(b), as being anticipated by Prevost (United States Patent No. 5,958,527). This rejection is herein traversed.

Applicant respectfully submit that the prior art of record fails to teach or suggest each and every limitation of the combination of elements of the claimed

invention of claim 1, including the limitation(s) of "said infill layer including a non-marking particulate material which is distributed so as to prevent a ball from being marked when the same hits the synthetic grass playing surface." Accordingly, this rejection should be withdrawn.

For example, United States Patent '527 issued to Prevost and assigned to the assignee of the present application teaches a synthetic grass turf assembly consisting of pile fabric with an infill layer of particulate matter. According to the Examiner, the granules of Prevost are known to have characteristics of being non-marking when a ball comes in contact with the granules. However, it is respectfully submitted that the resilient materials described in '527 do not have the inherent characteristic of being non-marking. They were chosen for other benefits; their tendency to mark is an unintended side effect that had to be solved.

Prevost does not recognize the ball marking problem associated with an infill layer having a top layer of resilient granules, such as rubber, vermiculite, cork, foam plastic and black or coloured EPDM rubber. It is respectfully submitted that all these materials are subject to leave some marks on a ball when the ball impacts with the top surface of the infill. Prevost does not teach providing non-marking particulate material in the infill nor does he teach distributing non-marking particulate material in a way so as to prevent the ball from being marked.

In view of the foregoing, independent claim 1 is clearly patentable over Prevost and the prior art of record. Dependent claims 2 to 8 are also believed patentable for at least the reasons outlined above with respect to claim 1.

### **Claim Rejections Under 35 U.S.C. § 103**

Claims 9 to 17 stand rejected under 35 U.S.C. 103(a), as being unpatentable over Prevost '527. This rejection is herein traversed.

As discussed hereinabove, Applicants respectfully submit that the prior art of record fails to teach or suggest each and every element of the unique combination of elements of the claimed invention. Further, Applicants submit that one of ordinary skill in the art would not have been motivated to modify the prior art of record as suggested by the Examiner. Accordingly, this rejection should be withdrawn.

It is respectfully submitted that the top, middle and base courses in '527 are superposed one over the other over the whole surface area of the pile fabric. Any variation in the courses or layers of Prevost would apply to the whole surface of the pile fabric and would thus not result in zones having different tangential properties. There is no suggestion in Prevost to divide a synthetic grass outfield surface in various zones or surface areas of different tangible properties by infilling each zone with a different infill composition. There is no suggestion in '527 to form a warning track on a synthetic grass surface.

In fact, Prevost teaches away from the present invention in that Prevost's synthetic grass is intended to be used with a conventional clay warning track that does not form part of the synthetic grass but which is rather provided at the periphery of the synthetic grass surface. There is no suggestion in '527 to integrate the warning track into the peripheral surface of a synthetic grass and, thus, this reference cannot teach how to achieve such an integration. Therefore, claim 9 is believed clearly patentable.

Regarding claim 10, it is respectfully submitted that the claimed "first and second infill layers" are not superposed like the top, middle and base layers of '527 but rather located in different zones of the synthetic grass playing surface, when viewed from above. In '527, the thickness of infill material is constant over all the surface of the synthetic grass.

Turning to claim 11, it is respectfully submitted that there is no suggestion in '527 to cover the distal ends of the synthetic ribbon with a layer of infill material. This is not merely a matter of design choice but rather a new way of forming a warning track directly on a synthetic grass surface.

Regarding claim 12, it is respectfully submitted that forming a warning track on a synthetic grass surface by providing a top covering layer of particulate material on a main base layer of a different particulate material evenly dispersed on the backing of a pile fabric is a totally new approach that has, so far, never been suggested by any artisan in the synthetic grass industry. If it is obvious, why has no one ever proposed to so integrate the

warning track to the synthetic grass surface? The integration of the warning track to the synthetic grass surface has numerous advantages: eliminates seams at the junction of the warning track in the outfield synthetic grass surface, reduces the time required for converting the playing surface to another sport playing surface not requiring a clay warning track, and eliminates the need to remove grass sections.

Claim 13 is believed patentable over the art made of record for at least the reason outlined above with respect to claims 9 to 12.

Turning to independent claim 14, it is respectfully submitted that the claimed "checkered pattern" is used to simulate mowing patterns and not for any aesthetic design choices. Applicants' new combination of synthetic grass sections of alternating color tones arranged in a checkered pattern unexpectedly provide a more natural aspect to the synthetic grass by simulating different grass mowing directions. It is respectfully submitted that finding a way of improving the natural appearance of a synthetic grass is well beyond mere design considerations and requires a great deal of ingenuity.

Dependent claims 15 to 17 are patentable for at least the reasons set forth above with respect to claim 14.

Reconsideration of the invention, as claimed in light of the above comments, is thus respectfully requested. If the Examiner feels that further changes to the application are necessary or if he is not convinced of the patentability of the claims on file, Applicants respectfully request a telephone

interview with the undersigned Agent of Record to advance the prosecution of the present application.

In accordance with the above discussion of the patents relied upon by the Examiner, Applicants respectfully submit that these documents, either in combination together or standing alone, fail to teach or suggest the invention as is set forth by the claims of the instant application.

Accordingly, reconsideration and withdrawal of the claim rejection are respectfully requested. Moreover, the Applicants respectfully submit that the instant application is in a condition for allowance.

As to the dependent claims, Applicants respectfully submit that these claims are allowable due to their dependence upon an allowable independent claim, as well as for additional limitations provided by these claims.

### **CONCLUSION**

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but rather to merely show the state-of-the-art, no further comments are necessary with respect thereto.

All the stated grounds of rejection have been properly traversed and/or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently pending rejections and that they be withdrawn.

It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

In the event there are any matters remaining in this application, the Examiner is invited to contact Matthew Shanley, Registration No. 47,074 at (703) 205-8000 in the Washington, D.C. area.

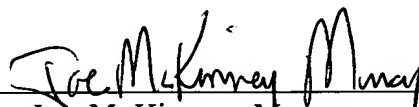
Applicants respectfully petition under the provisions of 37 C.F.R. § 1.136(a) and § 1.17 for a one-month extension of time in which to respond to the Examiner's Office Action. The Extension of Time Fee in the amount of **\$55.00** is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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